

REMARKS

A Notice of Appeal was filed in this case on June 4, 2002. An Appeal Brief in support of the notice was filed, in triplicate, on August 27, 2002.

A Notification of Nonconformance With 37 CFR §1.192(c) issued on January 13, 2003. The notice states that the brief includes the statement required by 37 CFR §1.192(c)(7), but does not present arguments in support thereof in the arguments section of the brief. It is further stated that “specifically, Applicant’s argue that ‘each of the claims stand and fall alone’. However, Applicant has failed to independently argue each and every claim/group.” The Notification of Nonconformance is respectfully traversed.

Contrary to the assertion in the Notification of Nonconformance, Applicants have not argued that “each of the claims stand and fall alone.” Rather, as stated in section IV, “Grouping Of Claims”, on page 10 of the originally filed Appeal Brief, “each of claims 29, 30, 31, 32, 33, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45 and 46 (as well as claim 47, which is presumed to be deemed allowable) recite features which form an independent basis for allowance. Hence, each of these claims stand and fall alone.” (emphasis added).

Thus, Applicants have not argued that each of pending claims 29-47 in the subject application stand and fall alone. Rather, Applicants have argued that only those claims explicitly referenced stand and fall alone. Claims 34 and 35 (which are not included in the listing) must necessarily stand and fall with their parent claim 29.

It is further respectfully submitted that each of the listed claims, i.e. claims 29-33 and 36-46, are addressed in the arguments submitted in the “Argument” section, on pages 10-24 of the originally filed Appeal Brief. More particularly, an explanation of why

each of the pending claims (other than claims 34-35, which stand and fall with parent claim 29, and claim 47, which has not been subjected to withdrawal or rejection or otherwise addressed in the final Official Action and is accordingly presumed to be allowed, as noted in section III "Status of Claims" on page 2 of the Appeal Brief) is believed to be separately patentable, is set forth in detail in the "Argument" section of the brief as required by 37 CFR §1.192(c)(7).

In this regard, the Examiner's attention is directed to the arguments presented relating to claim 29, in § X.1., on pages 16-18, and in § X.3., on pages 20-21, of the originally filed brief. With regard to claims 30-33 and 36-46, the patentably distinguishing features are discussed in the following sections and on the following pages:

- claim 30-§ X.3., page 21;
- claim 31-§ X.3., page 21;
- claim 32-§X.1., page 15;
- claim 33-§X.1., page 15;
- claim 36-§X.3., page 21;
- claim 37-§X.1., pages 13-14, §X.3., and page 21;
- claim 38-§X.1., page 13, §X.2., pages 19-20 and §X.3., page 24;
- claim 39-§X.2., pages 19-20 and §X.3., page 24;
- claim 40-§X.1., page 13, §X.2., pages 19-20 and §X.3., page 24;
- claim 41-§X.1., page 15;
- claim 42-§X.1., page 12;
- claim 43-§X.1., page 12;

claim 44-§X.1., pages 12-13;

claim 45-§X.1., pages 12-13; and

claim 46-§X.1., pages 12-13.

With regard to claim 47, as discussed above and in section III, on page 2 of the originally filed Appeal Brief, this claim has not been addressed in the final Official Action and accordingly is presumed to be deemed allowable. Thus, no arguments are presented with regard to the patentably distinguishing features of claim 47.

Notwithstanding the above, to expedite receipt of an answer in this appeal, section IV "Grouping of Claims" has been revised to avoid any further confusion. Additionally, certain noted typographical errors (all of which are non-substantive in nature) have been corrected in the revised Appeal Brief. Also, section I "Real Party In Interest" has been revised to include all party's in interest.

In view of the above, it is respectfully requested that the Notification of Nonconformance be reconsidered and withdrawn, and that an Answer issued to the arguments presented in the Brief be promptly issued.

The Examiner is respectfully requested to contact the undersigned by telephone at the below listed local telephone number, in order to expedite resolution of any remaining issues and further to expedite passage of the Brief to the Board, if any further comments, questions or suggestions arise in connection with the Brief.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 01-2135 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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